

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #2	CCRB Case #: 201806477	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 07/27/2018 4:46 PM	Location of Incident: 1760 Utica Avenue; 63rd Precinct stationhouse	Precinct: 63	18 Mo. SOL 1/27/2020	EO SOL 1/27/2020	
Date/Time CV Reported Fri, 07/27/2018 10:20 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/08/2018 11:13 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			063 PCT
2. POM Ilan Marhasin	18466	958873	063 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jonathon Perez	19449	964209	063 PCT
2. POM Harry Cruz	17669	960407	063 PCT
3. POM Gregory Bacich	20689	962934	063 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Ilan Marhasin	Discourtesy: At 1760 Utica Avenue in Brooklyn, Police Officer Ilan Marhasin spoke discourteously to § 87(2)(b)	
B. Officers	Abuse: At 1760 Utica Avenue in Brooklyn and at the 63rd Precinct stationhouse, officers did not obtain medical treatment for § 87(2)(b)	

Case Summary

On July 27, 2018, Sergeant John Lane of the 63rd Precinct filed this complaint with the CCRB on § 87(2)(b). On August 8, 2018, the complaint was forwarded to the CCRB via IAB § 87(2)(g) (Board Review 17). A hold was placed on this case by ADA Cary Fischer of the Brooklyn DA's Office from November 21, 2018 until March 21, 2019.

At approximately 4:46 p.m. on July 27, 2018, § 87(2)(b) was arrested for shoplifting at 1760 Utica Avenue in Brooklyn by Police Officer Harry Cruz and Police Officer Jonathon Perez of the 63rd Precinct. Police Officer Cruz and Police Officer Perez initially placed § 87(2)(b) into the back seat of their marked vehicle. The officers later removed § 87(2)(b) from their vehicle in order to search him before transporting him to the 63rd Precinct stationhouse. They were assisted in this action by Police Officer Ilan Marhasin and Police Officer Gregory Bacich of the 63rd Precinct. When the officers tried to search § 87(2)(b) he refused at first to open his hands. Police Officer Marhasin told him, “Just open your fucking hand” (**Allegation A: Discourtesy – Word**, § 87(2)(g) § 87(2)(b) eventually opened his hand, allowing them to complete their search. § 87(2)(b) was then transported to the 63rd Precinct stationhouse for arrest processing. He allegedly requested medical attention for an abrasion on his arm from several officers, both at the scene of his arrest and later at the stationhouse, but that these officers allegedly ignored him (**Allegation B: Abuse of Authority – refusal to provide medical attention**, § 87(2)(g) § 87(2)(b)

Body-worn camera (BWC) footage from this incident was obtained from Police Officer Cruz, Police Officer Marhasin and Police Officer Bacich (See Board Review #01-06: BWC Footage). The footage was attached in IAs #24-29 and summarized in IA #34 (See Board Review #07: BWC Summary). A subclip from one of Police Officer Marhasin's BWC videos has been attached in IA #112 (See Board Review #08: BWC Subclip).

Findings and Recommendations

Allegation (A) Discourtesy: At 1760 Utica Avenue in Brooklyn, Police Officer Ilan Marhasin spoke discourteously to § 87(2)(b)

§ 87(2)(b) was interviewed § 87(2)(b) September 18, 2018. A follow-up interview was conducted with him § 87(2)(b) October 26, 2018 (See Board Review #09: Follow-Up Statement). Police Officer Marhasin and Police Officer Cruz were interviewed at the CCRB on April 4, 2019.

It is undisputed that Police Officer Cruz and Police Officer Perez arrested § 87(2)(b) at 1760 Utica Avenue and loaded him into the back seat of their marked vehicle. The officers did not search § 87(2)(b) before placing him in their motor vehicle. Police Officer Cruz and Police Officer Perez were then joined by Police Officer Marhasin and Police Officer Bacich. While handcuffed in the back seat, § 87(2)(b) was able to remove his cell phone from his pocket. The gathered officers removed § 87(2)(b) from the marked vehicle in order to search § 87(2)(b) before transporting him to the 63rd Precinct stationhouse for arrest processing. § 87(2)(b)

§ 87(2)(b) was carrying cash in his clenched fist at the time. Police Officer Marhasin told § 87(2)(b) to open his hand, but § 87(2)(b) refused to do so.

§ 87(2)(b) stated that when the officers removed him from the rear of the vehicle and attempted to search him, he held an unspecified quantity of cash clenched in one of his fists. At first, he refused to open his hand. He told the officers that they needed to treat him with respect. When the officers agreed to do so, § 87(2)(b) opened his hand and allowed the officers to take his cash and search him. § 87(2)(b) did not recall hearing any officers use profanity during this incident.

Police Officer Marhasin recalled taking § 87(2)(b) back out of the marked vehicle after he was initially loaded in. He did not recall § 87(2)(b) holding anything in his hands at the time. He did not recall telling § 87(2)(b) to open his hands. He did not recall telling him, “Just open your fucking hand.” He did not recall if he or any other officer used profanity towards § 87(2)(b).

Police Officer Cruz did not recall § 87(2)(b) being taken back out of the vehicle or being searched after his arrest. He did not recall Police Officer Marhasin or any other officers trying to get an object out of § 87(2)(b)'s hand. He did not recall hearing Police Officer Marhasin or any other officer use profanity towards § 87(2)(b).

A subclip from Police Officer Marhasin's BWC footage has been attached in IA #112 (See Board Review #08: BWC Subclip). The video shows Police Officer Marhasin, Police Officer Cruz, Police Officer Perez and Police Officer Bacich attempting to search § 87(2)(b). § 87(2)(b) is in handcuffs. The officers stand behind § 87(2)(b). He shouts at an unseen individual, repeatedly stating, “Bitch, you're dead!” Starting at 1:00 into the recording, the gathered officers tell § 87(2)(b) four times to open his hand. At 1:10 into the recording, Police Officer Marhasin tells him, “Just open your fucking hand.”

Police Officer Marhasin was shown his BWC footage. He confirmed that he was the officer who told § 87(2)(b) “Just open your fucking hand.” When asked why he used this language, he explained that he did so because § 87(2)(b) was not being compliant at the time.

Officers may use limited profanity while attempting to gain control of a dynamic situation. Officers may not use profanity when it does not serve a legitimate purpose or is intended solely to demean an individual. PD v. Pichardo, DAO-DCT Case #2015-15012 (See Board Review #10: Legal Reference).

§ 87(2)(g). His BWC footage shows that § 87(2)(b) was irate and made threatening remarks towards the Dollar Tree employee. It also showed that § 87(2)(b) ignored multiple commands to open his hands. § 87(2)(g)

Allegation (B) Abuse of Authority: At 1760 Utica Avenue in Brooklyn and at the 63rd Precinct stationhouse, officers did not obtain medical treatment for § 87(2)(b)

It is undisputed that § 87(2)(b) did not receive medical treatment after his arrest.

§ 87(2)(b) stated during his initial CCRB interview that he received bruises to his shoulders, wrists and left knee during the incident. He made no mention of suffering any cuts or abrasions, or of sustaining injuries to his left forearm. § 87(2)(b) at first stated that he did not report his injuries to the police at any point. He then stated that he obtained a copy of a Medical Treatment of Prisoner Report generated for his arrest, which stated that § 87(2)(b) had refused medical attention. § 87(2)(b) denied that an officer had offered medical attention, or that he had refused medical attention offered to him at any time. Later in his statement, § 87(2)(b) stated that he did in fact request medical attention for his injuries when he was brought before the front desk at the 63rd Precinct stationhouse. He did not recall the specific phrasing he used while making this request. § 87(2)(b) asked either Police Officer Cruz or Police Officer Perez for medical treatment. He did not receive any response to this request.

During § 87(2)(b)'s follow-up statement, he further alleged that he requested medical attention during his initial arrest at 1760 Utica Avenue. He stated that after he was removed from the marked vehicle for the first time and searched, the gathered officers moved him back into the marked vehicle. Immediately before he entered the marked vehicle for the second time, § 87(2)(b) told the gathered officers, "I would like to get medical treatment." None of the officers gave any response to this request.

Police Officer Marhasin and Police Officer Cruz both denied that they heard § 87(2)(b) request medical attention at any point. They denied observing any injuries to § 87(2)(b) including any lacerations on his arm. They were not aware of any officers offering medical attention to § 87(2)(b) or of § 87(2)(b) refusing medical attention.

BWC footage was obtained from Police Officer Cruz, Police Officer Marhasin and Police Officer Bacich (See Board Review #01-06: BWC Footage). The footage begins when Police Officer Cruz arrests § 87(2)(b). The footage includes § 87(2)(b) being loaded into Police Officer Cruz's vehicle, his removal from the vehicle and subsequent search, his transportation to the 63rd Precinct stationhouse, his presentation at the stationhouse's front desk, and his lodging in a holding cell. The videos show that § 87(2)(b) had a laceration on his left forearm, near his wrist, at the time that he was searched next to the marked vehicle. The injury is clearly visible at 1:00 into the recording on the subclip from Police Officer Marhasin's BWC (See Board Review #08: BWC Subclip). § 87(2)(b) is not heard requesting medical attention at any point during any of the BWC videos.

After viewing images taken from the BWC video displaying the laceration on § 87(2)(b)'s arm, both Police Officer Cruz and Police Officer Marhasin stated that they did not recall seeing this injury.

Three TRI reports were prepared to document § 87(2)(b)'s arrests. These reports list the reporting officers as Police Officer Cruz, Police Officer Marhasin and Police Officer Perez. All

three reports state that § 87(2)(b) sustained a minor laceration or abrasion (See Board Review #11-12: TRI Reports). When Police Officer Cruz and Police Officer Marhasin were shown handwritten copies of these reports, they stated that they did not prepare the reports themselves, that the reports were not written in their handwriting, and that they had no recollection of another officer preparing the reports on their behalf. They had no recollection of § 87(2)(b) displaying any lacerations.

§ 87(2)(b)'s Medical Treatment of Prisoner Report (MTPR) states that § 87(2)(b) was not injured and that he refused medical treatment to EMT Ariella Kind, § 87(2)(g) at 5:30 p.m. while at the 63rd Precinct stationhouse (See Board Review #13: MTPR). The command log entry generated from the arrest also states that § 87(2)(b) refused medical attention. It lists his physical and mental condition as "apparently normal" (See Board Review #14: Command Log).

Police Officer Cruz and Police Officer Marhasin were both shown the medical treatment of prisoner report and the command log. After viewing these documents, they both stated that they did not recall § 87(2)(b) either being offered medical attention or refusing medical attention.

§ 87(2)(g) he did claim that he made requests for medical attention both at the scene of his arrest and later at the stationhouse. This account, however, is contradicted by the officers' BWC footage, which shows that he did not request medical attention or complain of any injuries during that time. § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- Police Officer Marhasin has been a member of the service for three years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of April 12, 2019, § 87(2)(b) has not filed a Notice of Claim with the NYC Office of the Comptroller (See Board Review #18: NOC Request).

- § 87(2)(b) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date